

6.1.00 1776-1914 Introduction - Church Committee's History of US Intelligence (1976)

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THE EVOLUTION AND ORGANIZATION OF THE FEDERAL INTELLIGENCE FUNCTION: A BRIEF OVERVIEW
(1776-1975)

Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities United States Senate

Book 6, Supplementary Reports on Intelligence Activities

Prepared for the Select Committee by Dr. Harold C. Relyea, Analyst in American National Government, Government and General Research Division, Congressional Research Service, Library of Congress in 1976.

Published by the Committee to "provide a comprehensive compilation of public, unclassified, sources of information on American intelligence activities, and includes a full bibliography."

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look for the evolution and organization of the federal intelligence function a brief overview 1776 through 1975 prepared for the Select Committee by dr. Harold C Ireland analyst and American national government government and general research division Congressional Research Service Library of Congress introduction for centuries before the birth of Christ sunsoo a Chinese military theorist counseled that quote the reason the enlightened prince or the wise general conquer the enemy whenever they move and their achievements surpassed those of ordinary men is foreknowledge what is called foreknowledge cannot be elicited from spirits nor from the gods nor by analogy with past events nor from calculations it must be obtained for men who know the enemy's situation end quote in this observation is the essence of what modern civilization refers to as intelligence as defined by the prestigious and highly respected Commission on the organization of the executive branch chaired by former President Herbert C Hoover quote intelligence deals with all the things that should be known in advance of initiating a course of action end quote but the concept is not synonymous with information Admiral William F Rayburn director of the Central Intelligence Agency from

1964 to 1966 explained quote intelligence as we use the term refers to information which has been carefully evaluated as to its accuracy and significance the difference between information and intelligence is the important process of evaluating the accuracy and assessing the significance

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accuracy and assessing the significance in terms of national security end quote expanding upon the idea of information evaluation preparatory to policy development intelligence may be understood as the product resulting from the collection evaluation analysis integration and interpretation of all available information which concerns one or more aspects of foreign nations or of areas of operations and which is immediately or potentially significant to planning end quote intelligence activities need not rely upon spies and informers to secure for knowledge information obtained in the open marketplace of ideas and international communications media can with proper analysis significantly contribute to an intelligence product further the possible utilization of spies and informers raises both the Machiavellian question of ends versus means and a practical question regarding impersonal spying for some the righteousness of the cause sanctions clandestine information gathering others condone such activity when it is confined to technological devices such as robot spy planes space satellites deep-sea sensors and listening devices or code breaking machines intelligence activities were a developed art among the ancients practice experience and technology have contributed to the sophistication of this pursuit today it may be assumed that every nation regardless of their form of government or guiding political philosophy engages in some type of intelligence activity minimally the intelligence function contributes to the preservation and security of the state beyond this denominator the intelligence function variably extends to the cultivation of the most grandiose

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cultivation of the most grandiose schemes of international relations and world power one research limitations because intelligence activities are generally cloaked in official and operational secrecy research on the evolution organization and activities of the federal intelligence community may be hampered by a scarcity of useful resource material and a plague of inaccuracies affected by a lack of corroborating evidence or reliance upon a common erroneous source footnote official secrecy refers to some type of legal authority establishing the compulsory withholding of certain types of information from disclosure operational secrecy refers to non acknowledgement of actions either by announcement or upon open questioning end footnote other research problems derive from the attitude of federal officials and the leaders of the armed services toward the intelligence function prior to World War one within the departments and agencies intelligence activities were viewed as neither necessary nor serious concerns the naive view prevailed that the major foreign powers of the day made little use of and had little use for intelligence if this was the case then the United States need not engage in such efforts when World War one introduced America to modern warfare it also provided an opportunity to examine the intelligence activities of the allies the net effect was one of embarrassment much was learned from the war experience with regard to building a useful and effective intelligence structure nevertheless the historical record must necessarily reflect scant consideration being given to intelligence activities at the federal level prior to the World War perhaps as

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level prior to the World War perhaps as an attempt to compensate for the actual circumstances of the pre-war situation some accounts of federal intelligence activity appeared to overstate or overemphasize the importance of certain agents or operatives and the significance of certain accomplishments thus a careful effort must be made to maintain a sense of historical proportion with regard to the exploits of individuals and the causation of events and the sphere of intelligence operations it should also be kept in mind that very early intelligence activities in the United States were highly sporadic and individualistic these conditions contribute to research difficulties with the result that very few records were produced or continued to exist and one final note must be added regarding the limitations of historical records in this area of research some significant developments in the evolution of federal intelligence operations have escaped written account and

useful and important documents for this research have been destroyed for reasons of political sensitivity embarrassment security and personal privacy to intelligence Authority the Constitution of the United States is silent regarding any direct reference to intelligence activities within article 1 section 8 Congress has granted certain powers which have an implication for the enactment of statutes operationalizing the intelligence function these include the authority to support armies maintain a navy and quote make rules for the government and regulation of the land and naval forces end quote relying upon these provisions Congress might have directly established armed forces intelligence operations and provided for the restriction of intelligence information by enacting appropriate

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information by enacting appropriate rules for federal civilian employees and regulations for military and Navy personnel that the House and Senate did not directly legislate on these matters does not affect the implied constitutional authority what the legislature did was provide a more ambitious and sophisticated organizational and administrative structure derivative of these powers the Department of War created in 1789 and the Department of the Navy established in 1798 it may be argued that it was within the discretion of the executive authority of these entities to organize intelligence operations in conformity with the constitutional power exercised by Congress in creating the department's footnote a permanent intelligence unit was established in the Navy Department in 1882 and in the War Department in 1885 both actions or internal directive ad-hoc and temporary spy systems of varying sophistication have been utilized by the Armed Forces since the time of the revolution end footnote modern intelligence operations authority continues to rest upon these basic constitutional provisions interpreted by Congress to grant power to legislate for the defense and security of the nation footnote the principle contemporary intelligence activities statutes are the National Security Act of 1947 and the Central Intelligence Act of 1949 which established the National Security Council and the Central Intelligence Agency much of the existing intelligence structure was created at the direction of the President or other executive branch officials and therefore has no direct statutory base and footnote the president would appear to derive Authority for intelligence activities from two constitutional provisions

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from two constitutional provisions article 2 section 2 names the president the commander in chief of the Army and Navy and section 3 directs that the chief executive quote take care that the laws be faithfully executed end quote as these are very vague and general provisions reliance upon them alone as Authority for intelligence activity would depend upon a president's view of his office a chief executive adopting Theodore Roosevelt's classic stewardship theory would undoubtedly have little reservation in utilizing such implied powers to justify intelligence operations in his autobiography Roosevelt exemplified his view of the presidency explaining quote the most important factor in getting the right spirit in my administration next to the insistence upon courage honesty and a genuine democracy of desire to serve the plain people was my insistence upon the theory that the executive power was limited only by specific restrictions and prohibitions appearing in the Constitution or imposed by the Congress under its constitutional powers my view was that every executive officer and above all every executive officer in high position was a steward of the people and not to content himself with the negative merit of keeping his talents undamaged in a napkin I declined to adopt the view that what was imperatively necessary for the nation could not be done by the president unless he could find some specific authorization to do it my belief was that it was not only his right but his duty to do anything that the needs of the nation demanded unless such action was forbidden by the Constitution or by the laws under this interpretation of executive power I did and caused to be done many things not previously done by the President and the heads of the departments I did not usurp power but I

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departments I did not usurp power but I did greatly broaden the use of executive power in other words I acted for the public welfare I acted for the common well-being of all our people whenever and in whatever manner was necessary unless prevented by direct constitutional or legislative prohibition I did not care a rap for the mere form and show of power I cared immensely for the use that could be made of the substance end quote just a few months before leaving office in June 1908 Roosevelt told Sir George auto Trevelyan quote while president I have been president emphatically I have used every ounce of power there was in the office and I have not cared a rap for the criticisms of those who spoke of my usurpation of power for I know that the talk has been all nonsense and that there has been no usurpation I believe that the efficiency of this government depends upon its possessing a strong central executive and whenever I could establish a president for strength in the executive as I did for instance as regards external affairs in the case of sending the fleet around the world taking Panama settling affairs of Santo Domingo and Cuba or as I did in internal affairs and settling the anthracite coal strike in keeping order in Nevada or as I have done in bringing the big corporations to book in all these cases I felt not merely that my action was right in itself but that in showing the strength of or in giving strength to the executive I was establishing a precedent of value I believed that responsibility should go with power and that it is not well that the strong executive should be a perpetual executive endquote opposed to this view of the presidency was Roosevelt's former Secretary of War 1905

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Roosevelt's former Secretary of War 1905 through 1908 personal choice for and actual successor as chief executive William Howard Taft according to America's 27th president quote the true view of the executive functions is as I conceived it that the president can exercise no power which cannot be fairly and reasonably traced to some specific grant of power or justly implied and included within such Express grant as proper and necessary to its exercise such specific grant must be either in the Federal Constitution or in an act of Congress passed in pursuance thereof there is no undefined residual of power which he can exercise because it seems to him to be in the public interest and there is nothing in the Nagle case and its definition of a law of the United States or an other precedence warranting such an interference the grants of executive power are necessary in general terms in order not to embarrass the executive within the field of action plainly marked for him but his jurisdiction must be justified and vindicated by affirmative constitutional or statutory provision or it does not exist there have not been wanting however eminent men in high public office holding a different view and who have insisted upon the necessity for an undefined residual of executive power in the public interest they have not been confined to the present generation and quote between these two views of the presidency live various gradations of opinion as many conceptions of the office as there have been holders the argument may be advanced however that those holding Roosevelt's stewardship theory would be more comfortable with undertaking constitutionally ill-defined intelligence activities also a

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intelligence activities also a president's view of his office will change with time and circumstances though he had argued against the stewardship theory and his Blumenthal lectures at Columbia University in 1915 and 1916 former President Taft writing the majority opinion of the Supreme Court as chief justice in the Myers case appealed to the opening Clause of article 2 of the Constitution as a grant of power he held that the chief executive had the right to remove executive and administrative officers of the United States nominated or appointed by him without the least restraint or limitation by Congress the Constitution Taft contended intended such officers to serve only at the president's pleasure following this example if momentary circumstances suggested such action and neither the Constitution or Congress offered any restraints upon same then a president might enter into intelligence operations under the color of the commander-in-chief clause or the faithful execution of the laws provision the founders of the republic did not have intelligence activities in their immediate purview when drafting the Constitution and assigning powers and functions to the branches of government established by this instrument nevertheless implied authority for such pursuits appears to have been granted to both the executive and the legislature this situation has permitted each branch to act independently with regard to intelligence organization and policy and has contributed as well to

conflicts between them on these matters what follows here is an overview of the evolution and organization of the federal intelligence function with a view to its origins and development within the context of a constitutional Democratic Republic this is our hidden history

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